

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**INCOME TAX REFERENCE No.112 of 1994****For Approval and Signature:****HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-****HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-**

1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

COMMISSIONER OF INCOME TAX - Applicant(s)**Versus****SAHYOG INVESTMENTS P LTD - Respondent(s)****Appearance :**

MR MANISH R BHATT for Applicant(s) : 1,

MR RK PATEL for Respondent(s) : 1,

CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA**and****HONOURABLE MS.JUSTICE H.N.DEVANI****Date : 29/09/2005****ORAL JUDGMENT****(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)**

1. The following question has been referred by the
Income-tax Appellate Tribunal, Ahmedabad Bench

'C' under Section 256(1) of the Income-tax Act, 1961 (the Act) at the instance of the Revenue:

“Whether, on the facts and in the circumstances of the case, the appellate Tribunal was right in law in holding that the interest on redeemable bonds and convertible debentures attributable to the period under consideration was not includible in the total income of the assessee for asst. Year 1985-86 ?”

2. The learned advocates appearing for the respective parties have jointly requested the Court to take up the matter, despite the fact that one of us (D.A. Mehta, J) had appeared on behalf of the assessee before the Commissioner (Appeals). In view of the fact that the case is covered by a judgment delivered by this Court in another matter, pursuant to the special request made by the learned advocates, the matter was taken up for hearing.
3. It is an admitted position as submitted by the learned advocates appearing for the parties that the controversy in issue in the present case stands answered by a decision of this Court

rendered in I.T.R. No.110 of 1990 on 10th July, 2002. In view of the law laid down by this Court in I.T.R. No.110 of 1990, the question referred to this Court is answered in the affirmative i.e. in favour of the assessee and against the Revenue.

4. The reference stands disposed of accordingly. There shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

Sd/-
[H.N. DEVANI, J]

*Bhavesh**